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Message from the President of the United States, communicating a petition of the Tonawanda band of Seneca Indians, praying that steps may be taken to abrogate the treaties of 1838 and 1842.

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

COMMUNICATING

A petition of the Tonawanda band of Seneca Indians, praying that steps may be taken to abrogate the treaties of 1838 and 1842.

APRIL 2, 1846.

Referred to the Committee on Indian Affairs, and ordered to be printed.

To the Senate of the United States :

In compliance with the request of a delegation of the Tonawanda band of the Seneca Indians, now in this city, I herewith transmit for your consideration a memorial addressed to the President and the Senate in relation to the treaty of January 15, 1838, with the "Six Nations of New York Indians;" and that of May 20, 1842, with the "Seneca Nation of Indians."

JAMES K. POLK.

WASHINGTON, April 1, 1846.

WAR DEPARTMENT,
Office Indian Affairs, March 28, 1846.

SIR: I have the honor to report to you on a memorial or petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, addressed to the President of the United States and the honorable the Senate.

The memorialists present their views on the subject of the treaties of 1838 and 1842, complaining that these treaties were never signed by them, and that they are not binding upon them, although ratified by the Senate: they, therefore, pray that the proper steps may be taken to abrogate these treaties; and that the reservations may be again placed under the government of their respective chiefs, setting forth their reasons why this should be done.

This memorial, it is the request of a delegation of these Indians, now in Washington, should be presented to the Senate by the President; and it is herewith enclosed, to be laid by you before him for such action as he may think proper to take upon it.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. WM. L. MARCY, *Secretary of War.*

To his excellency the President and to the honorable the Senate of the United States :

The petition of the Seneca Indians, residing upon the Tonawanda Reservation in the county of Genesee, and State of New York, respectfully represents :

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did, also, unanimously, oppose the treaty of May 20, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We, therefore, believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them ; and for denying their force, and resisting their execution, we set forth the following reasons :

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people having power to form a treaty, and bind themselves thereby ; and then, by the resolution of June 11, 1838, took away our *independence* by prescribing the manner in which our assent should be given, namely, by the signatures of a majority of our chiefs in open council ; when, in fact, by our national laws it was, and still is, necessary that *all* of the chiefs should be of one mind ; that they must *unanimously* agree to make a treaty, otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we, at Tonawanda, would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guaranteed to us by the United States government. The *ownership and the title* were in us. The Ogden company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now, we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe further, that this reservation, if put in market, would bring \$14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about \$2 50 per acre on an average. By these treaties, then, we are about to be despoiled of property, which was undeniably ours at the rate of \$11 50 per acre, even if we had been willing to sell it at its market value. In a word, over $\frac{1}{4}$ ths of all we possess has been taken from us by these treaties, and given to the Ogden company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation ! These facts alone must show that treaties so obviously unjust were never made by our nation

willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto. *

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Alleghany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we, on this reservation, 500 in number, could live upon the Alleghany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and, if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty, in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing, are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere *sacrifice* of two, to *save* two, believing that the *four* were otherwise lost. The fact that a majority signed under such circumstances, gives no *moral* force to the treaty.

5th. It may be said that, under these treaties, the rights of the Ogden land company have attached; and if the United States and the Senecas should abrogate these treaties by a new council, the company could re-

cover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that *twenty-three hundred and fifty* out of *twenty-five hundred* Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States; and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the *manner or means* whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we, on our part as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who investigates the facts shall then be authorized to make a new treaty, which shall abrogate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poodry,	his x mark	9
Samuel Parker,	his x mark	
Win Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,	his x mark	
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

Warriors.

		Number in family.
John Possum,	his x mark	12
Hau-nase haä,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4

Warriors.

		Number in family.
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks,	his x mark	5
W. Snyder, jr.,	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Clute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja-ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Doxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brookes,		2
John Shepard,	his x mark	5
James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodry,		2

Henry Parker,
George Moses,
William Jimmy,

his x mark

6
5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*